

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BRIAN) APPEAL NO. 07-A-2097
AND SUSAN ELCOX from the decision of the) FINAL DECISION
Board of Equalization of Ada County for tax year) AND ORDER
2007.

HOMEOWNER EXEMPTION APPEAL

THIS MATTER came on for hearing October 19, 2007, in Boise, before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellants Brian and Susan Elcox appeared. Chief Deputy Tim Tallman and Erica Thompson appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. R3610291540.

The issue on appeal is whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code Section 63-602G.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$60,500, and the improvements' valuation is \$275,500, totaling \$336,000. Appellants claim subject qualifies for the homeowner's exemption for 2006 and 2007 pursuant to Idaho Code Section 63-602G.

The subject property is a newer single-family residence located in Boise, Idaho.

Appellants moved into subject on April 1, 2006. The final closing did not occur until May 1, 2007. It was revealed the 2006 assessment notice was sent directly to the builder. The assessment notice was returned to the County unopened. The 2006 tax bill was also mailed to the builder, who gave the tax bill to Appellants. When Appellants received the

2007 tax assessment, they discovered the homeowner's exemption had not been granted for 2006 or 2007. Appellant then filed an application for the homeowner's exemption for tax year 2008.

Appellants explained that the purchase of subject was an unusual cash purchase made in installments, and they were unaware of the homeowner's exemption.

Appellant quoted Idaho Code Section 63-602G and stated the statute is too narrowly construed by the taxing authority and they should not have to "jump through hoops" to get the exemption to which they are entitled.

Respondent explained, per the recorded quitclaim deed subject was purchased on April 28, 2006. The mailing address on the deed was the same address the county mailed the assessment notice to.

In January 2007, the mailing address was updated to the Appellants address per a change on the Treasurer's return envelope received on December 29, 2006. The record included a copy of the application for the homeowner's exemption dated June 14, 2007.

CONCLUSIONS OF LAW

The Boards goal in this hearing is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The 2006 assessment and homeowner exemption claim was not timely appealed, the Board has no jurisdiction in a subsequent year to hear such an appeal. Idaho Code

Sections 63-5111 and 63-3811. Therefore the Board's review will be limited to the BOE decision of the 2007 assessment.

Idaho Code Section 63-602G. Property exempt from taxation – Homestead –

(2) The exemption allowed by this section may be granted only if:

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

“It should further be observed that a grant of exemption from taxation is never presumed and statutes and constitutional provisions relating to exemptions should be strictly construed, and where a doubt arises it should be resolved against the exemption.” Lewiston Orchards Irrigation Dist. v. Gilmore, 53 Idaho 377, 383, 23 P.2d 720, 722 (1933).

It was established that appellants were the owner of the residential property as of April 2006. It is clear the homeowner's exemption application was not submitted until June 2007. In order to comply with Idaho Code Section 63-602G, the form needed to be filed by April 15, 2007. The statutory language is clear and mandatory.

Without certifying to the county assessor prior to the April 15 deadline, that the person applying for the exemption has qualified for the homeowner's exemption under sections (i), (ii) or (iii) of 63-602G, the BOE had no choice but to deny the request.

This Board regrets that the appellants missed a critical legal deadline. As a homeowner's exemption was not timely requested, the Board has no choice but to uphold the decision of the Ada County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same

hereby is, affirmed.

DATED JANUARY 31, 2008